

CALIFORNIA CODES
EDUCATION CODE
SECTION 94100-94103
(as of 03/22/2006)

94100. It is the purpose of this chapter to accomplish all of the following:

(a) To give this and future generations of youth the fullest opportunity to learn and develop their intellectual and mental capacities by providing private institutions of higher education within the state with an additional means by which to expand, enlarge, and establish dormitory, academic, and related facilities, to finance those facilities, and to refinance existing facilities.

(b) To provide private and public institutions of higher education within the state with an additional means to assist students in financing their costs of attendance.

(c) To develop student, faculty, and staff housing on or near public and participating private institutions of higher education through the use of agreements with participating nonprofit entities.

(d) To make grants to private institutions of higher education to assist students in preparing for higher education and college entrance, pursuant to Article 9 (commencing with Section 94215).

94101. This chapter shall be known and may be cited as the California Educational Facilities Authority Act.

94102. All assets and obligations of the California Student Loan Authority, as of the effective date of the act that enacts this section during the 1995-96 Regular Session, are hereby transferred to, and assumed by, the California Educational Facilities Authority. All of those assets shall be used solely for student loan purposes.

94103. (a) Notwithstanding any other provision of law, no city, county, city and county, district, or other local jurisdiction shall operate, or request or authorize another entity, including, but not necessarily limited to, a corporation, either directly or through an intermediary, to do either of the following:

(1) Finance, or purchase or take assignments of, or make commitments to finance, any loan, or otherwise acquire any student loan note, including, but not necessarily limited to, any loan guaranteed under the Federal Family Education Loan Program

established under Title IV of the federal Higher Education Act of 1965, that is made to finance or refinance the costs of attendance at any institution of higher education, including any public and nonprofit private or independent degree-granting educational institution.

(2) Issue bonds, notes, debentures, or other securities involving any loan, including, but not necessarily limited to, any loan guaranteed under the Federal Family Education Loan Program established under Title IV of the federal Higher Education Act of 1965, that is made to finance or refinance the costs of attendance at any institution of higher education, including any public and nonprofit private or independent degree-granting educational institution.

(b) Any entity that, as of January 1, 2006, is not qualified to be awarded an allocation of the state's annual private activity volume cap to issue qualified scholarship funding bonds, as defined in subsection (d) of Section 150 of Title 26 of the United States Code as it exists on January 1, 2006, shall obtain approval from the authority to operate as a qualified scholarship funding corporation within the meaning of subsection (d) of Section 150 of Title 26 of the United States Code as it exists on January 1, 2006.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94110
(as of 03/22/2006)

94110. As used in this chapter, the following words and terms have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Authority" means the California Educational Facilities Authority created by this chapter or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the power conferred upon the authority by this chapter is given by law.

(b) "Bond" means bonds, notes, debentures, or other securities of the authority issued pursuant to this chapter.

(c) "Cost," as applied to a project or portion thereof financed under this chapter, embraces all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period after completion of, the construction as determined by the authority, provisions for working capital, reserves for principal and interest and for extension, enlargements, additions, replacements, renovations and improvements, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Dormitory" means a housing unit with necessary and usual attendant and related facilities and equipment.

(e) "Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, health care facility (including for an institution of higher education that maintains and operates a school of medicine, structures or facilities providing or designed to provide services as a hospital or clinic, whether the hospital or clinic is operated directly by the institution of higher education or by a separate nonprofit corporation, the member or members of which consist of the educational institution or the members of its governing body), faculty and staff housing, and parking, maintenance, storage, or utility facilities and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and the necessary and usual attendant and related facilities and

equipment, but does not include any facility used or to be used for sectarian instruction or as a place for religious worship or any facility used or to be used primarily in connection with any part of the program of a school or department of divinity.

(f) "Faculty and staff housing" means a residential unit owned by a participating college or participating nonprofit entity for use by an individual holding a faculty appointment or a staff position at a public university, public college, or participating college.

(g) "Participating nonprofit entity" means an entity within the meaning of paragraph (3) of subsection (c) of Section 501 of Title 26 of the United States Code that, pursuant to this chapter for the purpose of owning student, faculty, or staff housing, as approved by, and for participation with, the authority, undertakes the financing and construction or acquisition of student, faculty, or staff housing, on real property owned or leased by the entity, for the benefit of a public college, public university, or participating private college. The authority may determine any additional qualifications of a participating nonprofit entity through regulations or guidelines.

(h) "Participating private college" or "participating college" means a private college that neither restricts entry on racial or religious grounds nor requires all students gaining admission to receive instruction in the tenets of a particular faith, and that, pursuant to this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project.

(i) (1) "Private college" means an institution for higher education other than a public college, situated within the state and that, by virtue of law or charter, is a nonprofit private or independent degree-granting educational institution that is regionally accredited and empowered to provide a program of education beyond the high school level.

(2) For purposes of obtaining financing under this chapter, "private college" also includes either of the following:

(A) A nonprofit affiliate, established on or prior to January 1, 2005, of one or more private colleges, as defined in paragraph (1), the sole or primary purpose of which is to provide administrative or other support services to an affiliated private college or private colleges, and that undertakes the financing of a project for the exclusive use and benefit of one or more of the affiliated private colleges.

(B) A private nonprofit research organization affiliated with one or more private colleges, as defined in paragraph (1), and engaged in basic research and advanced education at the predoctoral and postdoctoral levels, but solely for the purpose of refunding bonds or other obligations previously issued by the authority.

(j) (1) "Project" means a dormitory or an educational facility, faculty or staff housing, or any combination thereof, or any function concerning student loans, or interests therein, as determined by the authority.

(2) For a participating nonprofit entity, "project" means the construction or acquisition of student housing or faculty and staff housing. The authority, in consultation with the top administrative officials and the participating nonprofit entity, shall develop and adopt regulations to ensure, to the greatest extent practicable, that each project involving a participating nonprofit entity is used to house students, faculty, or staff of the participating private college, public college, or public university. The student, faculty, or staff housing shall meet all of the following criteria:

(A) Upon completion or acquisition of the project, the project will be owned by a participating nonprofit entity and located on real property owned, or leased by, that entity.

(B) The top administrative official of the public university, public college, or participating private college that the project is intended to benefit, verifies the need for housing and financing assistance in a specific area pursuant to subparagraph (D).

(C) The project is monitored on an annual basis by the authority to ensure that it meets the requirements of subparagraph (E) and all other regulatory agreements entered into by the authority.

(D) The project is located within a five-mile radius of the boundary of a campus or satellite center of the public college, public university, or participating private college that the project is intended to benefit. The participating nonprofit entity may request approval from the top official of the institution for a project that is located outside the five-mile radius, provided that all of the following criteria are met:

(i) There are no available and feasible sites within the five-mile radius.

(ii) The project is near a mass transit destination.

(iii) The time required to commute from campus to the mass transit destination, as estimated by the top administrative official, typically does not exceed 30 minutes.

(E) (i) The project includes and maintains for 40 years a restriction to the grant deed on the real property on which the student or faculty and staff housing is to be located. The grant deed shall accomplish all of the following:

(I) Give the public college, public university, or participating private college that the project is intended to benefit the right, but not the obligation, to purchase the property at fair market value.

(II) Ensure that students, faculty, or staff of the affected campus will have first right of refusal to all available units.

(III) Require that, to the greatest extent feasible, at least 50 percent of student residents will meet the criteria for need-based financial assistance, as determined by the top administrative official of the affected campus.

(IV) Require that all contracts for construction and renovation of the proposed project shall be subject to, and comply with the provisions referenced in, Section 10128 of the Public Contract Code.

(ii) For the purposes of this subparagraph, the authority shall, through regulation or rule, define "student" and "faculty," taking into consideration enrollment status requirements and employment status requirements. The definitions of "student" and "faculty" may be different for each participating campus.

(k) "Public college" means a community college.

(l) "Public university" means any campus of the University of California, the California State University, or the Hastings College of the Law.

(m) "Student housing" means a residential unit owned by a participating nonprofit entity, and located on real property owned by that entity, for use by an individual enrolled at a public college, public university, or participating private college.

(n) "Student loan" means any loan having terms and conditions acceptable to the authority that is made to finance or refinance the costs of attendance at any private college or a public college and that is approved by the authority, if the loan is originated pursuant to a program that is approved by the authority.

(o) "Top administrative official" means the chancellor in the case of a campus of the University of California, the dean in the case of the Hastings College of the Law, the president in the case of a campus of the California State University, the president in the case of a campus of the California Community Colleges, or the president or highest ranking official in the case of a participating private college.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94120-94125
(as of 03/22/2006)

94120. (a) There is in the state government an authority known as the California Educational Facilities Authority. The authority constitutes a public instrumentality and the exercise by the authority of the powers conferred by this chapter shall be deemed and held to be the performance of an essential public function.

(b) The authority shall consist of five members: the Director of Finance, the Controller, the Treasurer, who shall serve as chairperson of the authority, and two members appointed by the Governor to serve for terms of four years; provided that the terms of the members first appointed shall be arranged by the Governor so that such terms shall expire on April 30 in different years. One of the members appointed by the Governor shall be affiliated with a public institution of higher education as a governing board member or in an administrative capacity and the other member shall be affiliated with a private institution of higher education as a governing board member or in an administrative capacity. Each member shall hold office for the term of his or her appointment and shall continue to serve during the term of his or her successor unless and until his or her successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

(c) Any member of the authority appointed by the Governor may be removed from office by the Governor for cause after a public hearing.

(d) The members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(e) The authority, upon the first appointment of its members and thereafter on or after April 30 in each year, shall annually elect from among its members a vice chairperson who shall hold office until April 30 next ensuing and shall continue to serve during the term of his or her successor unless and until his or her successor shall have been appointed and qualified.

94121. The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a

larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

94123. Notwithstanding any other provision of law neither of the following is a conflict of interest:

(a) Service by a trustee, director, officer, or employee of a participating private college, public college, or public university as a member of the authority, provided that the trustee, director, officer, or employee abstains from discussion, deliberation, action, and vote by the authority under this chapter with respect to the participating private college, public college, or public university for which that member is a trustee, director, officer, or employee.

(b) Affiliation of a member of the authority with a bank that serves the authority as bond trustee, depository of funds, or in any other financial, advisory, or fiduciary capacity.

94124. The authority shall maintain an office in the City of Sacramento.

94125. The authority may employ an executive director and such other persons as are necessary to enable it properly to perform the duties imposed upon it by this chapter. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94140-94156
(as of 03/22/2006)

94140. The authority shall have power to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt and have an official common seal and alter it at pleasure.

(c) Sue and be sued in its own name, and plead and be impleaded.

(d) Borrow money, issue bonds and notes and other obligations of the authority, and provide for the rights of the holders thereof as provided in this chapter.

(e) Acquire, lease as lessee, hold, and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this chapter.

(f) Acquire, in the name of the authority by purchase or otherwise, on the terms and conditions and in the manner as it deems proper, any land or interest therein and other property that it determines is reasonably necessary for any project, including any lands held by any county, municipality, or other governmental subdivision of the state; and to hold and use the same and to sell, convey, lease, or otherwise dispose of property so acquired, no longer necessary for the authority's purposes.

(g) Receive and accept, from any federal or other public agency or governmental entity, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants, loans, and contributions may be made.

(h) Prepare, or cause to be prepared, plans, specifications, designs, and estimates of costs for the construction and equipment of projects for participating colleges and participating nonprofit entities under this chapter, and from time to time to modify those plans, specifications, designs, or estimates.

(i) By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, projects for participating colleges and participating nonprofit entities.

(j) Employ consulting engineers, architects, accountants, construction and financial experts, superintendents, and other employees and agents that may be necessary in its judgment and to fix their compensation.

(k) Determine the location and character of any project to be undertaken pursuant to this chapter, and construct, reconstruct, repair, lease, as lessee or lessor, the same; enter

into contracts for any or all of those purposes; and designate a participating private college or participating nonprofit entity as its agent to determine the location and character of a project undertaken by the participating private college or participating nonprofit entity under this chapter and, as the agent of the authority, construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and, as agent of the authority, to enter into contracts for any and all of those purposes including contracts for the management and operation of the project.

(l) Establish rules and regulations for the use of a project or any portion thereof and to designate a participating private college or participating nonprofit entity as its agent to establish rules and regulations for the use of a project undertaken by the participating private college or participating nonprofit entity.

(m) Generally establish, revise from time to time, and charge and collect, rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with holders of its bonds and with any other person, party, association, corporation, or other body, public or private, in respect thereof.

(n) Enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly given in this chapter.

(o) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in obligations that are authorized by law for the investment of trust funds in the custody of the Treasurer.

(p) Charge, and equitably apportion among participating private colleges and participating nonprofit entities, its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

(q) Finance, directly or through an intermediary, or purchase or take assignments of, or make commitments to finance, directly or through an intermediary, or purchase or to take assignments of, student loans, to contract in advance for those student loans, and to contract in advance for that financing, purchase, or assignment, and to pay any amounts payable in respect thereto. A student loan shall be eligible for financing or purchase by the authority or for assignment hereunder regardless of the repayment status of the loan. Any pledge made to secure authority financing for student loan project purposes shall be valid and binding from the time the pledge is made. The revenues and receipts of property or interest in the property pledged and thereafter received by the authority, a participating college or public institution of higher education, a servicer, a trustee, or a custodian shall immediately be subject to the lien of the pledge without any physical delivery thereof or further

act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, participating college or public institution of higher education, servicer, trustee, or custodian irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(r) Hold or invest in student loans, create pools of student loans, and sell bonds bearing interest on a taxable or tax-exempt basis or other interests backed by the pools of student loans.

(s) Contract or otherwise provide for the distribution, processing, origination, purchase, sale, servicing, securing, and collection of student loans, the payment of fees, charges, and administrative expenses in connection therewith, and the funding of reserves required or provided for in any resolution authorizing, or trust agreement securing, authority financing for student loan purposes.

(t) Assist in providing support to participating colleges or participating nonprofit entities to enhance the market acceptance of potential bond issues by the authority, including securing probable or actual credit ratings from nationally recognized bond rating agencies, providing or obtaining liquidity or credit enhancement, providing or securing bond reserve funds, performing any other action deemed necessary by the authority, and incurring necessary expenses, payable from available authority funds, for any of these purposes.

94141. All expenses incurred in carrying out the provisions of this chapter shall be payable from funds provided the authority therefor, and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided therefor.

94142. The authority shall establish financial eligibility standards by studying the creditworthiness and earning capacity of each project together with the amount of pledged revenues, debt service coverage, and basic security, in addition to establishing machinery to monitor the ongoing compliance of each project with state authority and bond indenture requirements.

94143. The authority is authorized from time to time to issue its negotiable notes for any corporate purpose and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other

obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from revenues of the authority or other moneys available therefor and not otherwise pledged, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

94144. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of those bonds, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. The notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. The notes and the resolution or resolutions authorizing the same may contain any provisions, conditions, or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys and subject to any agreements with any participating institution. Notwithstanding that those bonds or notes may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of those bonds or notes for registration.

(c) (1) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority, and shall bear the date or dates, mature at a time or times, not exceeding 50 years from their respective dates, bear interest at the rate or rates, be payable at the time or times, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in lawful money of the United States of America at a place or places, and be subject to the terms of redemption that the resolution or resolutions may provide. The bonds or notes may be sold by the State Treasurer at public sale, or the authority, after giving due consideration to the recommendations

of the participating institution or participating nonprofit entity, may direct the State Treasurer to sell the bonds or notes at private sale.

(2) In the case of public sale, both of the following shall occur:

(A) The bonds specified in the resolution shall be sold by the State Treasurer, at a time fixed by him or her, and upon notice that he or she may deem advisable, or at the time to which the sale shall have been continued, at public sale, upon sealed bids, to the bidder whose bid will result in the lowest net interest cost on account of the bonds.

(B) If no bids are received, or if the State Treasurer determines that the bids are not satisfactory, the State Treasurer may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(3) Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates that shall be exchanged for the definitive bonds.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to all of the following:

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to those agreements with bondholders that may then exist.

(2) The rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(4) Limitations on the right of the authority or its agent to restrict and regulate the use of the project.

(5) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging those proceeds to secure the payment of the bonds or any issue of the bonds.

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which that consent may be given.

(8) Limitations on the amount of moneys derived from the project to be expended for operating, administrative, or other expenses of the authority.

(9) Defining the acts or omissions to act that constitute a default in the duties of the authority to holders of its obligations, and providing the rights and remedies of the holders in the event of a default.

(10) The mortgaging of a project and the site thereof for the purpose of securing the bondholders.

(e) Neither the members of the authority, nor any person executing the bonds or notes, shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel, or resell the bonds, subject to and in accordance with agreements with bondholders.

94145. In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

94146. (a) Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof or a pledge of the

faith and credit of the state or of any political subdivision other than the authority, but shall be payable solely from the funds herein provided. All bonds shall contain on the face thereof a statement to the effect that neither the State of California nor the authority shall be obligated to pay the same or the interest thereon except from revenues of the project or the portion thereof for which they are issued and that neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds.

(b) The issuance of bonds under the provisions of this chapter shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. No provision of this section shall prevent or be construed to prevent the authority from pledging its full faith and credit or the full faith and credit of a participating private college or participating nonprofit entity to the payment of bonds or issue of bonds authorized pursuant to this chapter.

94147. (a) The authority may fix, revise, charge, and collect rates, rents, fees, and charges for the use of and for the services furnished or to be furnished by each project, and may contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. These rates, rents, fees, and charges shall be fixed and adjusted in respect of the aggregate of rents, rates, fees, and charges from the project so as to provide funds sufficient with other revenues or moneys, if any, to accomplish all of the following:

(1) Pay the cost of maintaining, repairing, and operating the project and each and every portion thereof, to the extent that the payment of that cost has not otherwise been adequately provided for.

(2) Pay the principal of, and the interest on, outstanding bonds of the authority issued in respect of that project as the same shall become due and payable.

(3) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, bonds of the authority.

(b) (1) The rates, rents, fees, and charges referenced in subdivision (a) are not subject to supervision or regulation by any department, commission, board, body, bureau, or agency of this state other than the authority. A sufficient amount of the revenues derived in respect of a project, except a part of those revenues that is necessary to pay the cost of maintenance, repair, and operation and to provide reserves for renewals, replacements, extensions, enlargements, and improvements as may be provided for in the resolution authorizing the issuance of any

bonds of the authority or in the trust agreement securing the same, shall be set aside at regular intervals provided in the resolution or trust agreement in a sinking or other similar fund.

(2) The fund established pursuant to paragraph (1) is pledged to, and charged with, the payment of the principal of and the interest on, the bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided.

(3) The pledge required by paragraph (2) shall be valid and binding from the time when the pledge is made. The rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of that pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority.

(4) The use and disposition of moneys to the credit of the sinking or other similar fund shall be subject to the resolution authorizing the issuance of those bonds or of that trust agreement. Except as may otherwise be provided in that resolution or that trust agreement, the sinking or other similar fund shall be a fund for all of those bonds issued to finance projects at a participating college, or bonds issued to finance a project of a participating nonprofit entity, without distinction or priority of one over another.

(5) The authority, in the resolution or trust agreement, may provide that the sinking or other similar fund shall be either of the following:

(A) The fund for a particular project at a participating college and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority and, in this case, the authority may create separate sinking or other similar funds in respect of those subordinate lien bonds.

(B) The fund for a particular project of a participating nonprofit entity.

94148. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted

hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

94149. All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Until the funds are applied as provided in this chapter, and notwithstanding any other provision of law, the moneys may be invested in any obligations or securities authorized by resolutions of the authority authorizing the issuance of the bonds. Any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes hereof, subject to any regulations adopted pursuant to this chapter and the resolution authorizing the issuance of any bonds or the trust agreement securing the bonds.

94150. (a) The authority may issue bonds of the authority for the purpose of refunding any bonds or notes of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest date of redemption or subsequent date of redemption, purchase or maturity of the bonds, to be refunded and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion of a project.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase, retirement at maturity, or redemption prior to maturity of any outstanding bonds either on their earliest redemption date or dates, any subsequent redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt

payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be refunded either at their earliest redemption date or dates or any subsequent redemption date or dates. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded or to the payment of interest on the refunding bonds. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by the authority.

(d) The portion of the proceeds of any bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested in obligations or securities authorized by resolution of the authority, maturing not later than the time or times when the proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income, and profits, if any, earned or realized on the investment may be applied to the payment of all or any part of the cost or may be used by the authority in any lawful manner.

(e) All of those refunding bonds are subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

94151. (a) The authority is hereby authorized to loan funds to a participating institution and to provide for the issuance of bonds for the purpose of refinancing projects not originally funded pursuant to this chapter, such refinancing to include the repayment of costs, as defined in Section 94110, incurred for projects by the participating institution and which have a completion date subsequent to December 29, 1969.

(b) For purposes of this section, "completion date" shall mean, in the case of construction or renovation of a project, the date on which the notice of completion is filed, and, in the case of the acquisition of a project, the date of such acquisition.

(c) All such bonds shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

94152. Bonds and notes issued by the authority under the provisions of this chapter are hereby made securities in which all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an

insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control; and said bonds, notes or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

94154. The State of California pledges and agrees with the holders of the bonds, notes, and other obligations issued pursuant to authority contained in this chapter, and with those parties who may enter into contracts with the authority pursuant to this chapter, that the state will not limit, alter, or restrict the rights hereby vested in the authority and the participating private colleges and participating nonprofit entities to maintain, construct, reconstruct, and operate any project as defined in this chapter or to establish and collect the rents, fees, receipts, or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to this chapter, or in any way impair the rights or remedies of the holders of those bonds or those parties until the bonds, together with interest thereon, are fully paid and discharged and the contracts are fully performed on the part of the authority. The authority as a public body corporate and politic may include the pledge herein made in its bonds and contracts.

94155. On or before March 31 in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The authority shall also consult with the California Postsecondary Education Commission and the Student Aid Commission with respect to the need for additional financing of student loan projects.

94156. The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the authority will constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the authority under the provisions of this chapter, or upon the income therefrom, and any bonds issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions in the state.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94170
(as of 03/22/2006)

94170. Except as otherwise expressly provided in this chapter, any member, officer, agent or employee of the authority who is interested, either directly or indirectly, in any contract of another with the authority, or in the sale of any property, either real or personal, to the authority, shall be guilty of a misdemeanor.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94180-94181
(as of 03/22/2006)

94180. The State Controller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating to its financial standing.

94181. The authority shall be entitled to call to its assistance and avail itself of the services of such employees of any state department or agency as it may require and as may be available to it for said purpose.

The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this chapter, including the appointment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94190-94195
(as of 03/22/2006)

94190. (a) In addition to the foregoing powers, the authority shall have power to accomplish both of the following:

(1) Upon application of the participating college or participating nonprofit entity, to construct, acquire, or otherwise provide projects for the use and benefit of the participating private college, public college, or public university and the students, faculty, and staff of that participating institution. The participating college or participating nonprofit entity for which a project is undertaken by the authority shall approve the plans, specifications, and location of that project.

(2) To lease any project provided pursuant to this section to the participating private college or participating nonprofit entity for which that project is provided. When the liabilities of the authority incurred for a project have been met and the bonds of the authority issued therefor have been paid, or those liabilities and bonds have otherwise been discharged, the authority shall transfer title to all the real and personal property of that project vested in the authority, to the participating college or participating nonprofit entity in connection with which that project is then leased. However, if at any time prior thereto a participating private college ceases to offer educational facilities, then the title shall vest in the State of California.

(b) Any lease of a project authorized by this section shall be a general obligation of the lessee and may contain provisions, which shall be a part of the contract with the holders of the bonds of the authority issued for the project, as to all of the following:

(1) Pledging all or any part of the moneys, earnings, income, and revenues derived by the lessee from the project or any part or parts thereof, or other personal property of the lessee, to secure payments required under the terms of that lease.

(2) The rates, rentals, fees, and other charges to be fixed and collected by the lessee, the amounts to be raised in each year thereby, and the use and disposition of that income and those moneys, earnings, and revenues.

(3) The setting aside of reserves and the creation of special funds and the regulation and disposition thereof.

(4) The procedure, if any, by which the terms of the lease may be amended, the amount of bonds the holders of which must consent thereto, and the manner in which that consent may be given.

(5) Vesting in a trustee or trustees the specified properties, rights, powers, and duties as shall be deemed necessary or desirable for the security of the holders of the bonds of the authority issued for those projects.

(6) The obligations of the lessee with respect to the replacement, reconstruction, maintenance, operation, repairs, and insurance of that project.

(7) Defining the acts or omissions to act that constitute a default in the obligations and duties of the lessee, and providing for the rights and remedies of the authority and of its bondholders in the event of default.

(8) Any other matters, of like or different character, that may be deemed necessary or desirable for the security or protection of the authority or the holders of its bonds.

94191. The authority also shall have power:

(a) To make loans to any participating private college or participating nonprofit entity for the acquisition or construction of projects in accordance with a loan agreement and in accordance with plans and specifications that shall be subject to approval by the authority. No loan shall exceed the total cost of the project and the equipment therefor as determined by the authority. Each loan shall be premised upon an agreement between the authority and the participating private college or participating nonprofit entity as to payment, security, maturity, redemption, interest, and other appropriate matters.

(b) To make loans to any participating private college or participating nonprofit entity to refund existing bonds, mortgages, or advances or other obligations incurred, given, or made by the private college or participating nonprofit entity for the acquisition or construction of any projects.

94192. For the purpose of obtaining and securing loans under Section 94191, every participating private college or participating nonprofit entity shall, notwithstanding the provisions of any other law, have power to mortgage and pledge any of its real or personal property, and to pledge any of its income from whatever source to repay the principal of and interest on any loan made to it by the authority or to pay the interest on and principal and redemption premium, if any, of any note, bond, or other evidence of indebtedness evidencing the debt created by that loan; provided that the foregoing shall not be construed to authorize actions in conflict with specific legislation, trusts, endowment, or other agreements relating to specific properties or funds.

94193. Moneys of the authority received from any participating private college or participating nonprofit entity in payment of any sum due to the authority pursuant to the terms of any loan or other agreement or any bond, note, or other evidence of indebtedness, shall be deposited in an account in which only moneys received from participating private colleges or participating nonprofit entities shall be deposited, and shall be kept separate and apart from and not commingled with any other moneys of the authority. Moneys deposited in that account shall be paid out on checks signed by the chairperson of the authority or by a person or persons authorized by the authority.

94194. (a) Whenever the authority under Section 94190 undertakes to construct, acquire or otherwise provide a project and to lease the same to a private college, the lessee shall be responsible for the direct operation and maintenance costs of such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the lessee which are incurred because of such project and for the integration of each project operation into the lessee's educational program.

(b) Whenever the authority under Section 94191 makes loans for the construction of a project, the private college at which such project is located shall be responsible for the direct operation and maintenance costs of such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the private college which are incurred because of such project and for the integration of each project operation into the institution's educational program.

94195. Any pledge of moneys, earnings, income, or revenues authorized with respect to participating private colleges or participating nonprofit entities, pursuant to this chapter, shall be valid and binding from the time when the pledge is made. The moneys, earnings, income, or revenues so pledged and thereafter received by the pledgor shall immediately be subject to the lien of that pledge without any physical delivery thereof or further act. The lien of that pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the pledgor irrespective of whether the parties have notice thereof. No instrument by which a pledge is created need be filed or recorded in any manner.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94210-94213
(as of 03/22/2006)

94210. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

94211. Nothing contained in this chapter shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit of the state.

94212. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized, and shall be regarded as supplemental and additional to powers conferred by other laws; provided, however, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds including the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as otherwise provided in subdivision (a), a project that is financed in accordance with this chapter shall not be exempt from any provision of law that is otherwise applicable to the project.

94213. The powers granted to the authority by this chapter may be exercised without regard or reference to any department or agency of the state. All other general or special laws, or parts thereof, inconsistent with this chapter are hereby declared to be inapplicable to the provisions of this chapter.

CALIFORNIA CODES
EDUCATION CODE
SECTION 94215-94216.11
(as of 03/22/2006)

94215. The authority shall have power to make grants in aid to any private college in accordance with an agreement between the authority and a private college.

94215.3. Grants may be made to enable a private college to provide a program of academic assistance and services to pupils attending a qualified school, as defined in Section 94215.9, in order to inform the pupils of the benefits of, and the requirements for, higher education; prepare these pupils for college entrance; or to provide programs, such as academic enrichment and mentoring programs, that advance the academic standing of those pupils. The Legislature finds and declares that these grants will provide a benefit to the residents of the state.

94215.5. The authority is authorized to incur necessary expenses, payable from available funds, to provide grants for the purposes of this article, and the funds provided by the private college may be fully or partly matched by funds provided by the authority.

94215.7. (a) The authority, in consultation with representatives of private colleges, qualified schools, and other appropriate parties, shall develop selection criteria and a process for awarding grants under this article, which shall include all of the following:

(1) The extent to which the program to be funded will provide academic assistance, guidance in college admissions, or will otherwise contribute to the expansion of postsecondary educational opportunities for low- and very low income students.

(2) The extent to which the program, if it is already in existence, has a demonstrated record of success in providing academic assistance, guidance in college admissions, or in otherwise expanding the educational opportunities of students.

(3) If the program to be funded is new, the extent to which the applicant has demonstrated that the program is feasible, ready to be implemented, and well-structured to provide academic assistance, guidance in college admissions, or to expand the educational opportunities of students at qualified schools.

(4) The extent to which the program will serve qualified schools in geographic areas that are not currently being served by similar programs.

(5) The extent to which the applicant has demonstrated its commitment to providing need-based financial assistance to students who otherwise could not afford to attend the applicant's institution.

(6) The extent to which the applicant has committed its own funds, or funds obtained from other sources, to the program.

(7) The total amount of funds appropriated and available for purposes of this section.

(b) In no event shall a grant to finance a program exceed the total cost of the program, as determined by the applicant and approved by the authority. Grants shall be awarded only to applicants that have certified to the authority that all requirements established by the authority for grantees have been met. The authority shall not award more than a total of two million dollars (\$2,000,000) in grants under this article, nor shall it award more than two hundred fifty thousand dollars (\$250,000) to any applicant.

(c) All programs that are awarded grants shall be implemented within a reasonable period of time, to be determined by the authority. The authority shall not release any funds until the applicant demonstrates, to the authority's satisfaction, that the program is ready to be implemented. If the authority determines that the applicant has failed to implement the program under the terms specified in awarding the grant, the authority may require remedies, including the return of all or a portion of the grant.

(d) Any applicant receiving a grant under this section shall commit to using the grant funds for the purposes for which the grant was awarded.

94215.9. For purposes of this article, "qualified school" means any comprehensive school providing instruction in any of grades 7 to 12, inclusive, as determined by the authority, which shall take into consideration whether the school is in a low- or very low income area and whether, where applicable, the percentage of pupils who graduate from the school and are eligible for admission to the California State University or the University of California is below the statewide average according to the most recent information from the California Postsecondary Education Commission.

94216. Commencing with the 2004 calendar year, the authority shall annually submit to the Legislature a report setting forth the amount of funds awarded pursuant to this article in the preceding calendar year, the amount of each grant awarded, and a description of each of the outreach programs to which funding has been awarded under this article.

94216.9. The authority may adopt regulations to implement the grant program described in this article as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulation pursuant to this section filed with the Office of Administrative Law on or before July 1, 2003, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 360 days.

94216.11. This article shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.